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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

OTOS TECH CO., LTD.,

Plaintiff,

vs.

OGK AMERICA, INC. & YALE KIM A/K/A
YOUNGIL KIM,

Defendants/Third-Party Plaintiffs

vs.

OTOS OPTICAL CO., LTD., and MOON
YOUNG HUH

Third-Party Defendants.

CIVIL ACTION NO: 03-1979 (WHW)

Hon. William H. Walls, U.S.D.J.

**CERTIFICATION OF YALE KIM
A/K/A YOUNGIL KIM IN OPPOSITION
TO MOTION TO ENFORCE FOREIGN
JUDGMENT OF KOREA**

(Document Filed Electronically)

YOUNGIL KIM, being of full age, certifies and says:

1. I am a defendant in the above matter.
2. I make this Certification in opposition to the Motion to Enforce a Foreign Judgment filed by the plaintiff.
3. OGK America, Inc., is a New Jersey corporation formed in 1995. I am the president and my wife and I are its sole shareholders.
4. My wife and I moved to the United States from Korea in 1985. I have a valid alien residence card. My wife is a naturalized United States citizen.

5. I have spent several thousands of dollars in defending two cases involving the identical parties in this matter and the related matter in Korea. I first learned of the lawsuit in Korea when I received a Provisional Attachment of my commissions from Korea OGK Co., Ltd. See Exhibit A, copy of Provisional Attachment and my translation the Provisional Attachment.

6. The proceeding in Korea was heard by a judge only and not before a jury. It involved only two witnesses that testified at trial consisting of myself and Kevin Lee, employee of OTOS Tech Co., Ltd., and OTOS Optical Co., Ltd. Moon Young Huh, the president and owner of OTOS Tech Co., Ltd., and OTOS Optical Co., Ltd., did not testify nor was any testimony submitted by him before the judge in Korea.

7. According to the decision of the judge in Korea, the only point of contention at trial was whether an agreement was made on February 5, 2003 which authorized me to deduct three years of expected profits from the "export payment checks to be remitted to the plaintiff" which has been referenced in both litigated matters as the "mutual agreement" or the February 5, 2003 agreement.

8. The case in Korea did not involve the various causes being pursued in the present matter involving breach of the oral contract between that parties, the claim for breach of the implied covenant of good faith and fair dealing and my claim for compensation for my actual time and efforts referred to as a quantum meruit claim.

9. I do not believe the court in this matter should enforce the judgment from Korea on the February 5, 2003 agreement because I have filed an appeal in that matter which is expected to be decided in September, 2006. See Exhibit B, Copy of Appeal filed in Korea, first page only.

10. Even though my attorney filed an appeal in Korea, the plaintiff seized two things in Korea. One is my apartment in Kyounggi-Do (suburban area of Seoul, Korea--worth about \$150,000), the other one is my commission from Korea OGK Co., Ltd. My only income in 2004 and 2005 was by commissions paid to me by Korea OGK, which Otos seized).

11. By the judgment of the court in Korea, Otos was entitled to execute its right for these two assets. Otos has put my apartment on the auction first. According to the court officer, it will take about three to six months for actual auction due to processing time.

12. In addition, Korean judge applied 20% interest on the judgment in Korea (apparently in an attempt to expedite pay off of the judgment in Korea).

13. I have an appeal pending in Korea which focuses upon the errors of the judge in not upholding the "mutual agreement". I am also arguing the error in allowing a similar lawsuit to proceed while I was involved in the United States District Court lawsuit. Finally, I am seeking to overturn the decision for failure of the court to apply Korean law that would allow me to be paid a mandatory amount of the sales agency's right which is based on an average of yearly commission over five years.

14. Accordingly, for this reason and the reasons set forth in the opposition prepared by my attorneys, I respectfully request that the motion to enforce the judgment in Korea be denied.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.



Youngil Kim

Dated: March 28, 2004

EXHIBIT A

Ruling of provisional attachment

No.2 Civil court of Ansan Branch, Soowon district.

Case # : 2004 1333 Provisional attachment of obligatory right

**Obligee : Otos Tech Co., LTD.
234-12 kasan-Dong, Keumchun-Ku, Seoul, Korea
President Moon Young Huh**

**Obligor : Youngil Kim
OGK America, Inc.
111 Charlotte Place # 303, Englewood Cliffs, NJ 07632
delivery address : #706-207 Jookong Apt. 670 Kojan-Dong
Danwon-Ku, Ansan city.**

**3rd obligor : Korea OGK Co., LTD.
261-6 Ganhyun-Ri, Jijung-Myun, Wonjoo City
President : Soo An Park**

Request (ruling decision)

**Provisional attachment of obligor's credit to the 3rd obligor was ruled by this court.
The 3rd obligor should not pay to the obligor for this credit.**

**The obligor may appeal to the court of cancellation or cease of this ruling with
depositing a bond of below amount.**

Content of claimed credit : Usurpation

Amount of claim : Won 690,200,696.- (equivalent \$ 587,755.05)

Reason

This court accepted obligee's claim after receiving deposition bond.

2004. 12. 9

Clark Jumssoo Park

2004. 12. 9

Chief judge

Judge

Judge

Inwook Kim

Jaeho Park

Sungkwan Moon

- 1. This decision of ruling provisional attachment was judged by the documentation provided by the obligee.
- 2. Obligor may appeal to the court for this decision for its cancellation or cease of this ruling.

List of attachment

Amount : Won 690,200,696.-

The 3rd obligee's unpaid commission to the obligee as well as future commission amount to be paid to the obligee until it reaches amount of Won 690,200,696.-

2004. 12. 9.

이 사전 제권가압무 신청은 이유 있으므로 당국에 영장발급요청증(서울중앙지법부소회 사 결정번호 제 137-052-200406045790호)을 제출하고 부류부 각이 결정한다.

총 999,002,696 원

공공기관 10곳 10곳

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제1회 전국동시지방선거 서울특별시의회 의원선거구

채무자의 제3채무자에 대한 별지 기재 채권을 가압류한다.

ॐ नमः

제3책 무자
무신(夏)사한(平)오(五)지(支)계(己)
원(元)무(武)지(支)정(正)간(干)한(干)261-6
미(未)표(表)이(己)사(巳)박(朴)수(守)암(岩)

한인 이민의 역사

소송대리인 변호사 윤기정, 장승을, 등장불

오르스테드크 주식회사
서울 금천구 가산동 234-12
대표이사 허문열

Yt 권 2004가-8 1333 채권가-영복

전

吉卜力25周年

[illegible]

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주식회사 한국수업인, 주식회사 한국수업인, 주식회사 한국수업인

원주시 | 원주군 | 원주군 | 261-6

제3대 부자

05-1-13:12:25PM:

220-822

3 / 1 =

- ※ 1. 이 사업부 100%의 지분을 가진 자가 제 4항 소정의 자격을 갖추지 못한 것으로 판단할 것입니다.
2. 제 4항 소정의 자격을 갖춘 자가 사업부 이외의 회사에서 이 사업부에
제기할 수 있습니다.

판사 공관

판사 공관

* 공익 단체 관련 증언은 어떻게 될 것이지?
증인의 6명 증언을 전부 분석해야 할 것이지?
어떤 분석을 할 것이지? 분석 가능한 것만.
* The Counter claim은 \$1.1 Million은
가능한지 여부를 바르기로 한 것을 할 수
있는 분석을 할 것이지? 분석 가능한 것만.
* 07년 12월 23 06K의 증언을,
한 07년 7월 21일 증언과 함께 분석할
것이지? 분석 가능한 것만.

제3채무자의 제3채무자의 대항요 가지는 미지급된 수수료(커미션) 및
제3채무자로부터 받은 2개월의 한변천 지급받은 수수료(커미션)에 대해
모든 청구금액에 이를 때까지의 금액.

금 690,200,696원

최지우

EXHIBIT B

1

원고(피항소인, 이하 원고라고 합니다)는 2003. 5. 1. 미국 연방법원에 피
고를 상대로 소송을 제기하였고, 2005. 3. 국내법원에 이 사건 소송을 다시
제기하였습니다. 이에 대하여 피고는 전소와 후소가 동일 사건이므로 이
사건 소는 중복제소에 해당하여 각하되어야 한다고 주장하였으나 원심은
“외국 법원에 계속 중인 소송과 같은 사건에 대하여 우리나라의 법원에
소를 제기하는 것이 중복된 소제기로 금지된다고 할 수는 없다”고 판시

1. 원심판결의 취지

합니다.(본안전 항변)

1. 이 사건 소는 중복제소에 해당하여 부적법하므로 각하되어야

다

파 관이 변론을 준비합니다.

위 사건에 관하여 피고(항소인, 이하 피고라고 합니다)의 소송대리인은 다음

사	건	2006 나 13386 부당이득금반환
원	고(피항소인)	오토스테크 주식회사
피	고(항소인)	김영원

준비서면